



August 8, 2000
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 5053

Dear Sir:

This letter is in response to the July 19, 2000 complaint and the supplemental complaint of July 24, 2000 filed by the National Republican Congressional Committee (NRCC) against the Dooley for Congress Committee. The Dooley for Congress Committee urges the Federal Election Commission (FEC) to dismiss this complaint as being without merit and not based on any law as they pertain to the facts in this instance. In fact, this complaint is part of a campaign tactic by the Rodriguez for Congress Committee that attempts to create a campaign issue out of an honest misunderstanding.

We stand by our contention that the Rodriguez campaign has made "false accusations". This complaint is a nuisance complaint and should be treated as such. The Dooley for Congress Committee has never attempted to mislead anyone or obfuscate our actions. The contribution in question was fully reported. When the question regarding the validity of the contribution was raised and the campaign realized there was an issue, the funds were immediately and fully returned to the contributor.

Basis of Complaint

Acceptance of a Corporate Contribution

In both complaints, the NRCC alleges that the Dooley for Congress Committee, by accepting a \$10,000 contribution from a partnership known as HCC Properties, Ltd., (HCC) knowingly accepted a corporate contribution. The source of the funds in question has never been in doubt; the treatment and the attribution of the funds have always been at the heart of this issue.

FROM THE VALLEY . . . FOR THE VALLEY

P.O. Box 1367 ■ Visalia, CA 93279

Paid for and authorized by the Dooley for Congress Committee, FEC ID #C00236711, James W. Wise, Treasurer.

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At no time has our Committee ever believed or accepted the fact the contribution from HCC Properties, Ltd. Represented corporate funds. We were aware that there are two separate entities associated with the partners who comprise HCC – those entities are HCC – a partnership and Hilmar Cheese Company, Inc. – a corporation. Consistent with section 103.3(b) of federal regulation, when we were presented with the contribution from HCC on May 19, 2000 we again ascertained the legal status of HCC and we verified that indeed it is a partnership.

Accompanying the check from HCC was a letter (copy enclosed) that stated that HCC was a partnership and listed the partners who comprised HCC. Further, the cover letter outlined the manner in which the contribution was to be attributed among the 22 partners who comprise the HCC partnership. This cover letter was further indication to us that the funds represented a partnership contribution with appropriate partner attribution for the contribution. As we indicated in our letter of July 19, 2000 to the FEC, we believed that each partner was to be attributed \$454.54, which would have placed each partner under the allowable limits. Our error, we believed, was the fact that the software package we utilize did not properly list the memo entry for the partnership contribution and list the memo entry and itemized contributions on our June 30, 2000 Quarterly Report.

We would like to point out that under California law, the Limited (or Ltd.) designation can refer to a limited partnership and obviously this is a separate legal designation than a corporate entity. In fact, the use of the term "Company" in an entity's title does not necessarily indicate corporate status under California law either. An entity can use "Company" in a title and still not be a corporation. However, in this instance, we were well aware of the distinction between HCC and Hilmar Cheese Company. We were certain that the contribution represented and was drawn on the HCC account – the partnership. Although the individual partners who comprise HCC are also associated with Hilmar Cheese Company, it is important to stress that HCC and the Hilmar Cheese Company are two distinct entities.

An issue has been raised pertaining to the fact that a cover letter with the partnership contribution was from the Hilmar Cheese Company - the corporate entity. We want to stress that many of the contributions that any Congressional committee receives are

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accompanied by cover letters. Most often, the cover letters represent an entity legally separate from the entity making the contribution. (This is especially true with political action committee contributions). Our responsibility is to analyze the source of the funds of the entity making the contribution and on whose bank account the funds are drawn – not necessarily the cover letterhead. In this instance we determined that the source of funds was the HCC partnership, not the corporate entity.

Our contribution was fully reported on the FEC report. There was no attempt to obfuscate or circumvent the law. Based on two conversations we had with individuals at the FEC, we were offered two separate treatments for how the partnership funds were to be handled and reported. Our initial conversation with the staff on July 18 indicated that as long as the partnership check was accompanied by a cover letter indicating how the contribution was to be attributed among the partners (and of course no individual partners contribution exceeded allowable limits), the contribution could be accepted. Since our software failed to print out the memo entry indicating that the funds were received through the partnership and then failed to produce the itemization for each partner, we filed a letter with the FEC indicating that an amendment would be forthcoming to correct the error.

Later on July 18 a second conversation with the FEC indicated that Federal regulations prevented a partnership contribution from exceeding \$1,000 regardless of any accompanying documentation designating the partnership contribution attributions. At this time, we immediately indicated to the FEC and to HCC that the full contribution would be returned. The funds were returned on Thursday, July 20 and reported as such to the FEC. We returned these funds voluntarily and immediately upon realization that the contribution may not be allowed under FEC law. There was never any hesitation once we realized that there is a \$1,000 limit on any partnership contribution even with support documentation.

We stress that our activities are consistent with section 110.1(b)(5) of federal regulations pertaining to the treatment of excessive funds. This contribution was returned sixty days after its receipt and prior to a complaint being filed.

Ex parte Communication with the FEC

The allegation that the Dooley for Congress Committee violated FEC law by engaging in ex parte communication with the FEC is likewise without merit. Our Committee first contacted the FEC on July 18 when the issue of the \$10,000 contribution from the HCC partnership first arose. The purpose of the questions to the FEC was to determine what the law is and the application of the law to this partnership contribution. As we indicated to the media, we received conflicting reports from the FEC. As a result of that initial conversation we were told that as long as the partnership contribution was accompanied by documentation indicating how the partnership check was to be treated with the resulting contributions attributed to each partner, then our Committee could file an amended report with the correct itemizations and memo entries on Schedule A. This, we indicated to FEC, would be addressed immediately.

Subsequent to that conversation, a second conversation took place on the afternoon of July 19 with the FEC. During the course of that conversation we learned about the \$1,000 limitation on partnership contributions and that there may be an issue with the acceptance of the contribution. As soon as we realized the questions that were raised by this conversation, we returned the funds to HCC and so notified the FEC.

According to 11 C.F.R. 7.15 (b), the prohibition of ex parte communications with the FEC:

...shall apply from the time a complaint is filed with the Commission pursuant to 2 U.S.C. 437 (a)(1) or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur...and shall remain in force until the Commission has concluded all action with respect to the enforcement matter in question.

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Our communication with the FEC occurred prior to any complaint being filed and before the Commission (we believe) was even aware that there was an issue with the acceptance of the HCC partnership contribution. According to the press reports in the Fresno Bee and the "Received" date stamped on the complaint filed with the FEC, the complaint was not filed until July 20, 2000. Therefore, there can be no violation of the ex parte communication provisions of the FEC code.

Conclusion

We hope that the FEC will understand the commitment the Dooley for Congress Committee has to the letter and spirit of the law. The process by which the HCC contribution was analyzed by the committee was consistent with federal regulation. The return of excessive funds was likewise consistent with federal regulations. Finally, there was no ex parte communication with the FEC. Accordingly, we hope that you find the complaint by the NRCC without merit and take no action on the complaint.

Sincerely yours, -



Jim Wise
Treasurer

attachments



May 8, 2000

Dooley for Congress
7176 N. Prospect
Fresno, CA 93711

Gentlemen:

With regard to our recent contribution dated May 3, 2000 to Dooley for Congress, please be advised that HCC Properties, Ltd. consists of several general partners. These partners are: Charles Ahlem, William Ahlem, James Ahlem, Ralph Ahlem, Richard Clauss, Paul Dias, Phil Fanelli, Delton Nyman, Lloyd Nyman, Verna Van Till, Vern Wickstrom, Donnie Sherman, Karen Clauss Tate, Charlotte L. Van Till, Aletha A. Van Till, Mary J. Van Till, Martha J. Lazette, Chris Taylor, Jennifer Avila, C.A. Russell, Kimberly Clauss, and Kirsten Clauss Russell. Please divide the contribution between each partner equally.

Please contact me if additional information is needed.

Sincerely,


LISA SAHLMAN
Executive Assistant